

**IN THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF NEW
JERSEY**

HANS LAMPART and LORI ANN FIOCCHI,

PLAINTIFFS,

v.

**JOHN EAGLE HONDA OF DALLAS,
LITHIA MOTORS INC., WESLEY
GERHARDT, John Does 1-10, ABC
Corporations 1-10, j/s/a**

DEFENDANTS.

CASE NO. _____

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1332 and 28 U.S.C. § 1441, Petitioner, Lithia Motors, Inc. (hereinafter “Movant”), by and through its counsel, Kathleen Barnett Einhorn, hereby removes the above-captioned state court action, currently pending in the Superior Court of New Jersey, Law Division, Cumberland County, to the United States District Court for the District of New Jersey. In support of removal, Movant respectfully states as follows:

BACKGROUND

1. Hans Lampart and Lori Ann Fiocchi (“Plaintiffs”) filed an action on or about August 9, 2023, Case No. CUM-L-000451-23, in the Cumberland County Superior Court (the “State Court Action”), asserting claims under the New Jersey Consumer Fraud Act and for fraud. *See* a true and correct copy of Plaintiffs’ Complaint, attached hereto as Exhibit “A.”
2. Movant was served with the Complaint on August 14, 2023, attached hereto as Exhibit “B.” No other Defendants have been served with the Complaint.

3. The Complaint avers that on May 8, 2023, Plaintiffs purchased a used 2020 Aston Martin from John Eagle Honda of Dallas, which is located at 5311 Lemmon Avenue, Dallas, Texas 75209. *See* Exhibit “A” at ¶ 7.
4. Specifically, Plaintiffs allege the Aston Martin was damaged and had 11,000 miles, instead of 9,968 miles, as represented. *See* Exhibit “A” at ¶ 9.
5. Plaintiffs’ Complaint did not plead a specific monetary amount of damages but requests, *inter alia*, rescission of the contract, and damages for services, repairs, frustration, aggravation, interest, attorney fees, punitive damages, treble damages and costs of suit. *See* Exhibit “A” at ¶¶ 18, 27. Plaintiffs allege \$12,000 in out-of-pocket repairs and diminished value. *See* Exhibit “A” at ¶ 9.
6. Plaintiffs purchased the Aston Martin for \$148,987. *See* a true and correct copy of the Vehicle Buyers Order signed by Plaintiffs attached hereto as Exhibit “C”.
7. The amount in controversy exceeds \$148,987 based on demand for rescission of the contract. In cases where a plaintiff seeks to rescind a contract, the contract's entire value, without offset, is the amount in controversy. *See, e.g., Jadair, Inc. v. Walt Keeler Co.*, 679 F.2d 131, 133 n. 5 (7th Cir. 1982) (remarking that in a case of contract rescission, the amount in controversy is a net figure not including counterclaims or offsets); *Savarse v. Edrick Transfer Storage, Inc.*, 513 F.2d 140, 142 (9th Cir. 1975) (declining to count offset against amount in controversy); *Cohen v. North Ridge Farms, Inc.*, 712 F. Supp. 1265, 1266 (E.D. Ky. 1989) (holding that amount in controversy is met in diversity action, in which plaintiff sought rescission of contract for purchase of a returnable good, without regard to

- offset); *Associated Press v. Berger*, 460 F. Supp. 1003, 1004 (W.D. Tex. 1978) (citing *Jones v. Landry*, 387 F.2d 102 (5th Cir. 1967) (remarking that though defendant claimed offset, the amount in controversy should not consider the offset)); *Bailey v. Romney*, 359 F. Supp. 596, 599 (D.D.C. 1972) (finding that the amount in controversy is clearly satisfied where plaintiffs seek to rescind the purchase of their homes and homes are worth a substantial sum).
8. Thirty (30) days from service of Plaintiffs' Complaint will be September 13, 2023.
 9. Upon Movant's information and belief, no further proceedings have occurred in the State Court Action.

BASIS FOR REMOVAL

10. Movants have a statutory right to remove cases based upon diversity of citizenship. 28 U.S.C. § 1332.
11. Specifically, 28 U.S.C. § 1332 provides that "[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$ 75,000, exclusive of interest and costs, and is between--(1) Citizens of different States"
12. Movants' state that diversity of citizenship exists between the parties in controversy as follows:
 - a. Plaintiffs plead that they reside in New Jersey and they are therefore citizens of New Jersey. See Exhibit "A" at ¶ 1.
 - b. Lithia Motors, Inc. is a citizen of the State of Oregon. Specifically, Lithia Motors, Inc. is a corporation incorporated under the laws of the State of Oregon, with its principal place of business located in Oregon.

- c. Dallas-H, Inc. d/b/a John Eagle Honda of Dallas is a citizen of the State of Texas and is a citizen of the State of Oregon. Specifically, Dallas-H, Inc. is a corporation incorporated under the laws of the State of Texas, with its principal place of business located in Oregon.
 - d. Wesley Gerhart is the General Manager of John Eagle Honda of Dallas, Texas and is a citizen and resident of Texas.
- 13. Plaintiffs also allege that diversity of citizenship exists between the parties. *See* Exhibit “A” at ¶¶ 1-6.
 - 14. Plaintiffs seek to recover at least \$148,987, exclusive of interest and costs, in this matter. *See* Exhibit “C”.
 - 15. Movant filed this Notice of Removal within thirty (30) days of service of Plaintiffs’ Complaint.
 - 16. Therefore, this Court may properly remove the State Court Action based on diversity jurisdiction.
 - 17. This Notice of Removal was not filed more than one year after commencement of the action. 28 U.S.C. § 1446(b).
 - 18. The United States District Court for the District of New Jersey has jurisdiction over this action pursuant to 28 U.S.C. § 1332 by reason of diversity jurisdiction of Plaintiffs and Movant as set forth with greater particularity above.
 - 19. Venue properly lies with this Court pursuant to 28 U.S.C. § 1441(a) and 1446(a), as this action is presently pending in the Superior Court of New Jersey, Law Division, Cumberland County, located within the District of New Jersey.
 - 20. In the interest of judicial economy and the fair adjudication of claims brought

before the Court, Movant seeks removal to this Court.

21. A written notice of the filing of this Notice of Removal has been given to all parties in accordance with 28 U.S.C. §1446(d).
22. Promptly after filing in this Court and the assignment of a civil action number, a true and correct copy of this Notice of Removal will be filed with the Clerk of Court for the Superior Court of New Jersey, Law Division, Cumberland County, as required by U.S.C. § 1446(d). A copy of the notice to be provided to the Superior Court is attached hereto as Exhibit “D.”

WHEREFORE, Movant, Lithia Motors, Inc., respectfully requests that it may affect the removal of this action from the Superior Court of New Jersey, Law Division, Cumberland County to the United States District Court of New Jersey.

Respectfully submitted,

GENOVA BURNS LLC

By: /s/ Kathleen Barnett Einhorn
Kathleen Barnett Einhorn
494 Broad Street
Newark, New Jersey 07102
(973) 533-0777
Fax: (973) 533-1112
keinhorn@genovaburns.com

Dated: September 12, 2023

CERTIFICATION

I certify that a true copy of the Plaintiffs' Complaint filed in the Superior Court of New Jersey, County of Cumberland is attached hereto as Exhibit "A." A copy of the Affidavit of Service is attached hereto as Exhibit "B." Vehicle Buyers Order signed by Plaintiffs is attached as Exhibit "C". A copy of the notice to be provided to the Superior Court is attached hereto as Exhibit "D." A copy of all pleadings, process, and orders served on Movant as required by 28 U.S.C. § 1446(a), are attached as Exhibit "E".

By: /s/ Kathleen Barnett Einhorn
Kathleen Barnett Einhorn

Dated: September 12, 2023

CERTIFICATE OF SERVICE AND FILING

I, Kathleen Barnett Einhorn, attorney for Defendant, Lithia Motors, Inc., hereby certify that I served a true copy of the foregoing Notice of Removal via United States Regular mail on this date to the parties listed below:

Plaintiffs' Counsel:

Via Email: mtesta@testalawyers.com

Michael L. Testa

Testa Heck Testa & White, P.A.

424 Landis Avenue

Vineland, New Jersey 08360

By: /s/ Kathleen Barnett Einhorn

Kathleen Barnett Einhorn

Dated: September 12, 2023

EXHIBIT “A”

TESTA HECK TESTA & WHITE, P.A.
MICHAEL L. TESTA - Attorney ID: 020251975
424 W Landis Avenue
Vineland, NJ 08360
Phone: (856) 691-2300
Fax: (856) 691-5655
Attorney(s) for Plaintiffs, Hans Lampart and Lori Ann Fiocchi

HANS LAMPART and LORI ANN FIOCCHI

Plaintiff

vs.

JOHN EAGLE HONDA OF DALLAS, LITHIA
MOTORS INC., WESLEY GERHARDT, LLC, John
Does 1-10, ABC Corporations 1-10, j/s/a/

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
CUMBERLAND COUNTY

DOCKET NO. : CUM-L-451-23

CIVIL ACTION
SUMMONS

From The State of New Jersey To The Defendant(s) Named Above:

LITHIA MOTORS, INC.

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.

Dated: August 10, 2023

/s/ Michelle M. Smith
Clerk of the Superior Court

Name of Defendant to Be Served: Lithia Motors, Inc.

Address of Defendant to Be Served: 150 N. Bartlett
Medford, Oregon 97501

TESTA HECK TESTA & WHITE, P.A.

By: Michael L. Testa (#020251975)
mtesta@testalawyers.com

424 Landis Avenue
Vineland, NJ 08360
Phone: (856) 691-2300
Fax: (856) 691-5655

Attorney for Plaintiffs, Hans Lampart and Lori Ann Fiocchi

HANS LAMPART and LORI ANN FIOCCHI,	:	SUPERIOR COURT OF NEW JERSEY
	:	
	:	CUMBERLAND COUNTY – LAW
Plaintiffs	:	DIVISION
	:	
vs.	:	Docket No:
	:	
JOHN EAGLE HONDA OF DALLAS,	:	CIVIL ACTION
LITHIA MOTORS INC., WESLEY	:	
GERHARDT, John Does 1-10, ABC	:	
Corporations 1-10, j/s/a	:	COMPLAINT BY HANS LAMPART
	:	AND LORI ANN FIOCCHI
Defendants	:	

Plaintiffs, Hans Lampart and Lori Ann Fiocchi, by way of Complaint against Defendants, John Eagle Honda of Dallas, Lithia Motors, Inc., Wesley Gerhardt, John Does 1-10 and ABC Corporations 1-10, j/s/a, do hereby state and say:

FACTS COMMON TO ALL COUNTS

1. Plaintiffs, Hans Lampart and Lori Ann Fiocchi are New Jersey residents with an address of 925 E. Landis Avenue Suite E Vineland, NJ 08361.
2. Defendant, John Eagle Honda of Dallas, is upon information and belief a Texas business entity with an address of 5311 Lemmon Ave, Dallas, TX 75209.
3. Defendant, Lithia Motors, Inc. is an online automobile vehicle provider that owns John Eagle Honda of Dallas that has an address of 150 North Bartlett Medford, Oregon USA 97501 and does business nationally.

4. Defendant, Wesley Gerhardt is the General Sales Manager of Lithia Motors, Inc. and has an address of 5311 Lemmon Avenue, Dallas, TX 75209.

5. Defendants John Does 1-10 are fictitious entities and are described as the individual owners, employees, agents, and/or representatives of John Eagle Honda of Dallas and/or Lithia Motors, Inc. described herein that misrepresented the vehicle's condition and caused injury to Hans Lampart and Lori Ann Fiocchi.

6. Defendants, ABC Corporations 1-10, are fictitious entities and are described as the successors, subsidiaries, parent companies, joint venturers, and otherwise affiliated entities of John Eagle Honda of Dallas and/or Lithia Motors, Inc.

FACTS

7. On May 8, 2023, Plaintiff, Hans Lampart, and Defendant, John Eagle Honda of Dallas, entered into an agreement for John Eagle Honda of Dallas to sell a 2020 Aston Martin DB11 (Vin# SCFRMFCW2LGMO885) to Plaintiffs Hans Lampart and Lori Ann Fiocchi.

8. The vehicle was advertised by Defendant John Eagle Honda of Dallas to have 9,968 miles on the odometer at sale and only two previous owners to the vehicle.

9. When the vehicle was delivered, the car had over 11,000 miles, three previous owners, underrated tires, an overdue 10,000-mile inspection, a center console that needed to be replaced, a damaged left rear quarter panel, needed a detail, and only one car key.

8. Plaintiff Hans Lampart had informed Defendant Wesley Gerhardt of the condition of the car after delivery and listed the specific repairs that needed to be made.

9. Plaintiffs Hans Lampart and Lori Ann Fiocchi have paid approximately \$12,000.00 out of pocket to repair the car into an acceptable condition. These costs do not accommodate for the diminished value due to increased mileage and number of owners.

10. Defendants has refused to reimburse Plaintiffs for the costs.

11. Defendants delayed sending the title to Plaintiffs for over eight weeks.

COUNT ONE
(All Defendants)
(NJ Consumer Fraud Act)

12. The preceding paragraphs are incorporated by reference as if set forth at length herein.

13. The Plaintiffs sue for the damages sustained on account of the fraudulent actions and inactions of Defendants.

14. Defendants had misrepresented the condition, mileage and number of previous owners.

15. Plaintiffs have suffered a loss because the value of the vehicle is significantly less than the vehicle they bargained for.

16. Defendants' misrepresentations of the vehicles overall condition have caused Plaintiffs to incur damages by providing Plaintiffs with a vehicle valued much lower than agreed upon.

17. As a direct and proximate result of the intentional misrepresentations on the part of Defendants, Plaintiffs have suffered foreseeable direct and consequential damages.

18. Such damages include service and repair costs, frustration and aggravation.

WHEREFORE, Plaintiffs, Hans Lampart and Lori Ann Fiocchi demand rescission of the contract and as damages against the Defendants, j/s/a, for all services, repairs, frustration, aggravation plus lawful interest, reasonable attorneys' fees, punitive damages, treble damages, costs of suit and any other relief deemed to be just and equitable.

COUNT TWO
(All Defendants)
Common Law Fraud

19. The preceding paragraphs are incorporated by reference as if set forth at length herein.

20. Defendants have misrepresented the number of miles, number of owners, and the overall condition of the vehicle.

21. The difference in the number of miles, owners and overall condition diminished the value of the vehicle.

22. Defendants knew or should have known that there was a misrepresentation in the number of miles, number of previous owners and overall condition of the vehicle.

23. Defendants have misrepresented the specific details of the vehicle to appeal to the Plaintiffs for purchase.

24. Plaintiffs were unaware of the misrepresentation at the time of contract.

25. Plaintiffs relied on the vehicle advertisement, the discussions with the sales person, and the information provided to Plaintiffs on the registration and other documents.

26. Plaintiffs had no other reason to believe the information provided to Plaintiffs were false.

27. But for the misrepresentations provided by the Defendants, The Plaintiffs have suffered damages

WHEREFORE, Plaintiffs demand rescission of the contract and as damages against the Defendants, j/s/a, for all services, repairs, frustration, aggravation plus lawful interest, reasonable attorneys' fees, costs of suit, punitive damages and any other relief deemed to be just and equitable.

TESTA HECK TESTA & WHITE, P.A.

Dated: August 7, 2023

BY: s/ Micheal L. Testa
MICHAEL L. TESTA
Attorney for:
Hans Lampart and Lori Ann Fiocchi

DEMAND PURSUANT TO R. 4:18-1

Pursuant to R. 4:18-1, demand is made that John Eagle Honda of Dallas, Lithia Motors, Inc. and Wesley Gerhardt furnish true and correct copies of the following documents:

1. Any and all agreements, documents, and contracts between and/or among any and all persons and/or parties relating to the subject matter of this action.
2. Any and all documents in the possession of the Defendants relevant to any issue regarding the subject matter of this litigation.
3. Any and all correspondence between and/or among all persons and/or parties relating to the subject matter of this action.
4. Any and all memoranda between and/or among any and all persons and/or parties relating to the subject matter of this action.
5. Any and all reports between and/or among any and all persons and/or parties relating to the subject matter of this action.
6. Any and all emails, text messages, facsimiles or other correspondence between and/or among any and all persons and/or parties relating to the subject matter of this action.
7. Any and all records of discussions and conversations between and/or among any and all persons and/or parties relating to the subject matter of this action.

8. Any and all records of communications including inter-office and intra-office communications between and/or among any and all persons and/or parties relating to the subject matter of this action.

9. Any and all statements obtained from any and all persons and/or parties, whether signed and acknowledged or not, relating in any way whatsoever to this litigation.

10. All photographs, charts, diagrams, maps and other pictorial or graphic depictions of any matter relevant to the action whether in the possession of or under the control of or available to the Defendants.

TESTA HECK TESTA & WHITE, P.A.

Dated: August 7, 2023

BY: s/ Michael L. Testa
Michael L. Testa
Attorney for:
Hans Lampart and Lori Ann Fiocchi

CERTIFICATION PURSUANT TO R. 4:5-1

I, Micheal L. Testa an attorney at law of the State of New Jersey and a partner with the law firm of Testa Heck Testa & White, P.A., certify as follows:

1. I am not aware of any other action now pending in any other court or of a pending or contemplated arbitration proceeding regarding the matters in controversy in this civil action.

2. I am not aware at this time of the names of any other person or prospective parties who should be joined in this action.

3. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the statements made by me are willfully false, I am subject to punishment.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury in accord with the Rules of Civil Practice.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Michael L. Testa, Esquire, is hereby designated as trial counsel in the above-captioned litigation on behalf of Plaintiffs, Hans Lampart and Lori Ann Fiocchi.

Dated: August 7, 2023

s/ Michael L. Testa

Michael L. Testa

Civil Case Information Statement

Case Details: CUMBERLAND | Civil Part Docket# L-000451-23

Case Caption: LAMPART HANS VS JOHN EAGLE HONDA
OF DALLAS

Case Initiation Date: 08/09/2023

Attorney Name: MICHAEL L TESTA

Firm Name: TESTA HECK TESTA & WHITE, PA

Address: 424 LANDIS AVE P.O. BOX 749

VINELAND NJ 083620749

Phone: 8566912300

Name of Party: PLAINTIFF : Lampart, Hans

Name of Defendant's Primary Insurance Company
(if known): Unknown

Case Type: OTHER Consumer Fraud

Document Type: Complaint with Jury Demand

Jury Demand: YES - 12 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: Hans Lampart? NO

Are sexual abuse claims alleged by: Lori Ann Fiocchi? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? YES

If yes, is that relationship: Business

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? YES

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

08/09/2023
Dated

/s/ MICHAEL L TESTA
Signed

EXHIBIT “B”

HANS LAMPART, ET AL

Plaintiff

20230810172209

Superior Court Of New Jersey

VS

CUMBERLAND Venue

JOHN EAGLE HONDA OF DALLAS, ET AL

Defendant

Docket Number: CUM L 451 23

Person to be served (Name and Address):

LITHIA MOTORS, INC.
150 N. BARTLETT
MEDFORD OR 97501

By serving: LITHIA MOTORS, INC.

Attorney: MICHAEL L. TESTA, ESQ.

Papers Served: SUMMONS AND COMPLAINT, CIS, TRACK ASSIGNMENT
NOTICE, DEMANDS, CERTIFICATION,

Service Data: ☒ Served Successfully

☐ Not Served

Date/Time:

8-14-23

10:12 AM

☐ Delivered a copy to him/her personally

☐ Left a copy with a competent household member over 14 years of age residing therein (indicate name & relationship at right)

☒ Left a copy with a person authorized to accept service, e.g. managing agent, registered agent, etc. (indicate name & official title at right)

AFFIDAVIT OF SERVICE

(For Use by Private Service)

Cost of Service pursuant to R. 4:4-3(c)

\$ _____

Name of Person Served and relationship/title:

Sara Plankenhorn

Corporate Receptionist

Description of Person Accepting Service:

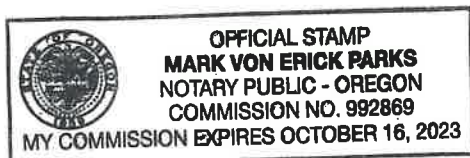
SEX: F AGE: 50 HEIGHT: 5'5 WEIGHT: 180 SKIN: W HAIR: blond OTHER: _____

Unserved:

- ☐ Defendant is unknown at the address furnished by the attorney
☐ All reasonable inquiries suggest defendant moved to an undetermined address
☐ No such street in municipality
☐ Defendant is evading service
☐ Appears vacant
☐ No response on:

Date/Time: _____
Date/Time: _____
Date/Time: _____

Other: _____



To Be Used Where Electronic Signature Not Available

Served Data:

Subscribed and Sworn to me this

17 day of August, 2023

Notary Signature:

MARK PARKS 10-16-23
Name of Notary Commission Expiration

DocuSign Court Approved E-Signature

I, Kristeen Martin

was at the time of service a competent adult, over the age of 18 and not having direct interest in the litigation. I declare under penalty of perjury that the foregoing is true and correct.

Signature of Process Server Date 8/17/2023

Name of Private Server: _____ Address: 2009 Morris Avenue UNION, NJ 07083 Phone: (800) 672-1952

EXHIBIT “C”

Date: 05/03/2023

VEHICLE BUYER'S ORDER

CUST # 1097359 DEAL# 10994

Buyer Name and Address HANS HELMUT LAMPART 1873 BROOKFIELD ST VINELAND NJ 08361 Email: hl@epacdevco.com Phone: 856/305-6497 Cell: 856/305-6497	Co-Buyer Name and Address LORI ANNE FIOCCHI 1873 BROOKFIELD ST VINELAND NJ 08361 Email: NOEMAIL@GMAIL.COM Phone: 856/305-6497 Cell:	Seller Name and Address JOHN EAGLE HONDA OF DALLAS 5311 LEMMON AVE DALLAS, TX 75209 Salesperson: AHMAD ALAANI Deal Number: 10994
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THIS BUYER'S ORDER IS FOR THE FOLLOWING ☐ NEW ☒ USED ☒ CAR ☐ TRUCKTO BE DELIVERED
ON OR ABOUT 05/03/2023

Year	Make	Model	Type	Trim	Color	Mileage	Stock #
2020	ASTON MARTIN	DB11	Convertible		BLU/Blue	9968	LGM08852P
TRADE IN RECORD 1				VIN SCFRMFCW2LGM08852			
YR.	MAKE	MODEL	TYPE	PRICE OF VEHICLE \$ 148987.00			
2018	MASERATI	Gran Turis		ACCESSORIES SERVICES, TAXES:			
COLOR	TRIM	MILEAGE					
BLACK		18156					
VIN ZAM45VMA6J0278871							
TITLE NO.	PLATE NO.	EXP. DATE					
OWNER		LOAN #					
LIENHOLDER		PHONE					
ADDRESS		SPOKE WITH					
AMOUNT	GOOD TILL	VERIFIED BY					
62000.00							
TRADE IN RECORD 2							
YR.	MAKE	MODEL	TYPE				
COLOR	TRIM	MILEAGE					
VIN							
TITLE NO.	PLATE NO.	EXP. DATE					
OWNER		LOAN #					
LIENHOLDER		PHONE					
ADDRESS		SPOKE WITH					
AMOUNT	GOOD TILL	VERIFIED BY					
N/A							
COLLISION COVERAGE							
NAME OF AGENT		PHONE					
ADDRESS		N/A					
POLICY NUMBER		COLLISION DEDUCTIBLE					
INSURANCE CO.		SPOKE WITH					
EFFECTIVE DATE	EXP. DATE	VERIFIED BY					
N/A	N/A						
**A DOCUMENTARY FEE IS NOT AN OFFICIAL FEE. A DOCUMENTARY FEE IS NOT REQUIRED BY LAW, BUT MAY BE CHARGED TO BUYERS FOR HANDLING DOCUMENTS RELATING TO THE SALE. A DOCUMENTARY FEE MAY NOT EXCEED A REASONABLE AMOUNT AGREED TO BY THE PARTIES. THIS NOTICE IS REQUIRED BY LAW.							
UN CARGO DOCUMENTAL NO ES UN CARGO OFICIAL. LA LEY NO EXIGE QUE SE IMPONGA UN CARGO DOCUMENTAL. PERO ÉSTE PODRÍA COBRARSE A LOS COMPRADORES POR EL MANEJO DE LA DOCUMENTACIÓN EN RELACIÓN CON LA VENTA. UN CARGO DOCUMENTAL NO PUEDE EXCEDER UNA CANTIDAD RAZONABLE ACORDADA POR LAS PARTES. ESTA NOTIFICATION SE EXIGE POR LEY.							
NOTICE TO CREDIT BUYER							
If Buyer(s) intends to finance this vehicle purchase on credit this Buyer's Order is an offer to purchase only. This Buyer's Order is not an agreement for the extension of credit.							
PRIOR CREDIT BALANCE				N/A			
UNPAID BALANCE DUE				87911.42			
TAXES				634.67			
SERVICE CONTRACT				N/A			
CASH PRICE				149621.67			
NET TRADE IN ALLOWANCE				62000.00			
CASH DOWNPAYMENT				N/A			
OTHER DOWNPAYMENT				N/A			
UNPAID BALANCE				87621.67			
**DOCUMENTARY FEE				150.00			
OTHER CHARGES:							
Title Fee				33.00			
Inspection Fee				25.50			
License Fee				57.00			
Deputy Service Fee				10.00			
Registration Fee				14.25			

CUST # 1097359 DEAL # 10994

USED CAR BUYERS GUIDE: THE INFORMATION YOU SEE ON THE WINDOW FORM FOR THIS VEHICLE IS PART OF THE CONTRACT. INFORMATION ON THE WINDOW FORM OVERRIDES ANY CONTRARY PROVISIONS IN THE CONTRACT OF SALE.

GUÍA PARA COMPRADORES DE VEHÍCULOS USADOS. LA INFORMACIÓN QUE VE EN EL FORMULARIO DE LA VENTANILLA PARA ESTE VEHÍCULO FORMA PARTE DEL PRESENTE CONTRATO. LA INFORMACIÓN DEL FORMULARIO DE LA VENTANILLA DEJA SIN EFECTO TODA DISPOSICIÓN EN CONTRARIO CONTENIDA EN EL CONTRATO DE VENTA.

ALL WARRANTIES, IF ANY, BY A MANUFACTURER OR SUPPLIER OTHER THAN SELLER ARE THEIRS, NOT SELLER'S. ONLY SUCH MANUFACTURER OR OTHER SUPPLIER SHALL BE LIABLE FOR PERFORMANCE UNDER SUCH WARRANTIES, UNLESS SELLER FURNISHES BUYER WITH A SEPARATE WRITTEN WARRANTY OR SERVICE CONTRACT MADE BY SELLER ON ITS OWN BEHALF. SELLER NEITHER ASSUMES NOR AUTHORIZES ANY PERSON TO ASSUME FOR IT ANY LIABILITY IN CONNECTION WITH THE SALE OF ANY PRODUCTS.

UNLESS THE SELLER MAKES A WRITTEN WARRANTY ON ITS OWN BEHALF, OR ENTERS INTO A SERVICE CONTRACT WITHIN 90 DAYS FROM THE DATE OF THIS ORDER, THIS VEHICLE IS SOLD "AS IS" AND "WITH ALL FAULTS" AND THE SELLER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, ON THE VEHICLE, AND THERE WILL BE NO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THIS PROVISION DOES NOT AFFECT ANY WARRANTIES COVERING THE VEHICLE THAT THE MANUFACTURER OR SUPPLIER MAY PROVIDE.

Buyer acknowledges that he has read, understands and accepts all of the provisions of this seller warranty disclaimer covering the motor vehicle described.

AS BUYER OF THE VEHICLE DESCRIBED ON PAGE 1, I UNDERSTAND AND AGREE THAT THE SELLER MAY MAKE A PROFIT ON THE SALE OF THE VEHICLE, ANY ADD-ON EQUIPMENT, INSURANCE PRODUCT, FINANCING, WARRANTY OR SERVICE CONTRACT, REPAIR, OR ANY OTHER PRODUCT OR SERVICE SOLD BY SELLER.

The Seller's Inventory Tax charge is intended to reimburse the seller for ad valorem taxes on its motor vehicle inventory. The charge, which is paid by the seller to the county tax assessor-collector, is not a tax imposed on the consumer by the government, and is not required to be charged by the seller to the consumer.

Buyer agrees that this Agreement includes all of the terms and conditions on all pages of this Agreement hereof, that this Agreement cancels and supersedes any prior agreement including oral agreements, and as of the date below comprises the complete and exclusive statement of the terms of the agreement relating to the subject matters covered by this Agreement. Buyer, by signing this Agreement, acknowledges that Buyer has read its terms and has received a true copy of this Agreement.

If Buyer is buying the Vehicle for cash (this includes a Buyer arranging Buyer's own financing from a party other than seller), this Agreement is not binding upon either Seller or Buyer until signed by an authorized Seller representative.

BUYER HAS READ ALL PAGES OF THIS AGREEMENT AND AGREES TO ALL TERMS AND CONDITIONS IN THIS AGREEMENT.

BUYER SIGNS X _____ DATE 05/03/2023

CO-BUYER SIGNS X _____ DATE 05/03/2023

MANAGER'S APPROVAL _____ DATE 05/03/2023

(Must Be Accepted By An Authorized Representative of the Seller)

ADDITIONAL TERMS AND CONDITIONS

CUST # 1097359 DEAL# 10994

1. These definitions apply to this Agreement:

"Agreement" means the Vehicle Buyer's Order.

"Buyer" means the party or parties executing this Agreement as such.

"Manufacturer" means the manufacturer of the Vehicle.

"Seller" means the authorized Seller named on page 1 of this Agreement.

"Trade-in" is the used vehicle that Buyer intends to use as part of the consideration for the purchase price of the Vehicle or otherwise is to be transferred to Seller.

"Vehicle" is the vehicle or chassis that is the subject of this Agreement.

2. The Manufacturer may change the design of any vehicle, chassis, accessories, or parts at any time without notice. The Manufacturer may also make the same or any similar change upon any vehicle, chassis, accessories, or parts already bought by or shipped to Seller or being manufactured or sold in accordance with Seller orders. If the Manufacturer makes such a change, Seller has no obligation to Buyer to notify Buyer or make the same or any similar change in the Vehicle or its parts either before or after Seller delivers the Vehicle to Buyer. The Manufacturer may change the price of new vehicles without notice. If the Manufacturer changes the price of the new vehicle of the series and body type of the Vehicle before Seller delivers it to Buyer, Seller may change the price of the Vehicle to Buyer accordingly. If Seller changes the price of the Vehicle, Buyer may cancel this Agreement and Seller shall return the Trade-in to Buyer if the Trade-in remains available. Buyer agrees to pay Seller reasonable storage and repair charges. If the Trade-in is unavailable, Seller shall pay Buyer the Trade-in allowance less a sales commission of 15% and any expense in storing, insuring, conditioning or advertising the Trade-in for sale.

3. The Trade-in shall be appraised or re-appraised at the time it is delivered to Seller. The appraised value will be the allowance for the Trade-in. If the reappraised value is lower than the amount shown in this Agreement, Buyer may cancel this Agreement. Buyer must exercise Buyer's right to cancel upon a change in the appraised value before Seller delivers the Vehicle to Buyer and Buyer surrenders the Trade-in to Seller.

4. Buyer shall give Seller satisfactory evidence of title to any Trade-in upon delivery to Seller. Buyer warrants any Trade-in to be Buyer's property, free and clear of all liens and encumbrances unless otherwise noted in this Agreement, and that the Trade-in has never had a salvage or "branded" title, been reconstructed, reconditioned, nonrepairable, rebuilt, flooded or had major mechanical damage that caused the reconstruction of the Trade-in. Buyer represents that the Trade-in's mileage shown in this Agreement is the actual mileage on the Trade-in. Buyer authorizes Seller to rely on this representation in entering into this Agreement. If Buyer provides false information related to the Trade-in Buyer agrees to repurchase the Trade-in for the full allowance given to Buyer plus all costs incurred by Seller in resolving the matter including but not limited to reconditioning costs, legal fees, court and collection costs. Buyer authorizes Seller to sell the Trade-in without regard to whether the financing contingencies are satisfied as described below.

5. Except as permitted under Sections 2 or 3 above, if Buyer fails or refuses to accept delivery of the Vehicle or comply with this Agreement, without limiting any other rights Seller may have, Seller may keep as liquidated damages any deposit made by Buyer, to the extent not prohibited by law. Seller may also reimburse itself for any expenses and losses it incurs or suffers as a result of Buyer's failure or refusal to comply with this Agreement, including, without limitation, reasonable attorney's fees. Seller isn't liable for failure to deliver or delay in delivering the Vehicle where such failure or delay is due, in whole or in part, to any cause beyond Seller's control or without Seller's fault or negligence.

6. The Vehicle price doesn't include sales taxes, use taxes or occupational taxes (federal, state or local) unless expressly so stated. Buyer agrees to pay, unless prohibited by law, any such taxes imposed on or that apply to the transaction reflected by this Agreement, regardless of who has primary liability for the tax.

7. If this Agreement shows a charge for credit insurance, this paragraph applies. The credit insurance provisions in any retail installment contract Buyer may sign related to this Agreement will apply. If such credit insurance is wholly or partially unavailable under the designated policy, Seller will deduct the applicable part of the credit insurance charge shown in this Agreement and the related finance charge from the total time balance. If such credit insurance does not become effective, Seller will notify Buyer. This Agreement and any related retail installment contract Buyer may sign shall otherwise remain fully effective, to the extent provided by applicable law.

8. Buyer agrees to sign such agreements or documents as Seller may reasonably require to effect the terms and conditions of payment shown in this Agreement and to otherwise carry out the intent of this Agreement.

9. This Agreement is an agreement to buy the Vehicle. If there is a balance due, Buyer's obligation to buy and Seller's obligation to sell the Vehicle are expressly conditioned upon Buyer obtaining financing for the balance due. Buyer has two business days from the date of this Agreement to obtain such financing. If Buyer pays Seller with a check that is dishonored or unpaid for any reason, Seller may, in its sole discretion, declare this Agreement null and void and retake the Vehicle and/or make claims against Buyer on the check. In addition, to the extent permitted by law, Buyer will pay Seller a charge of \$30 if any check Buyer gives Seller is dishonored or any electronic payment is returned unpaid.

10. If there is a conflict between the terms and conditions of this Agreement and the terms and conditions of any Conditional Delivery Agreement signed by Buyer(s) the terms and conditions of the Conditional Delivery Agreement will control.

11. Buyer may arrange financing through Seller or a finance source of Buyer's choosing. Buyer may be able to obtain more favorable financing from a third party. Buyer understands the annual percentage rate (APR) quoted by Seller may be negotiable. If this Agreement shows that any part of the transaction is to be financed, Seller may assist in submitting credit applications to third parties, for which Buyer grants permission. Seller will not lend Buyer money or finance this transaction regardless of any notation to the contrary on any document. No agent, employee or manager of Seller may change this policy.

12. In the event that any of the terms and conditions of this Agreement are inconsistent with the terms and conditions of any retail installment sales contract between Buyer and Seller, the term of such retail installment sales contract shall apply. Each provision of this Agreement shall be severable from every other provision of this Agreement for the purpose of determining the legal enforceability of any provision hereof.

13. **IT IS BUYER'S RESPONSIBILITY TO OBTAIN INSURANCE ON THE VEHICLE.** Seller may request insurance information from Buyer in order to register the Vehicle with the Division of Motor Vehicles (DMV) or for verifying insurance coverage. Seller's request for insurance information does not constitute an agreement to transfer or obtain insurance coverage on the Vehicle. By signing this agreement Buyer covenants and agrees that Buyer has obtained, or will obtain, before the Vehicle is driven by anyone, insurance on the Vehicle.

14. **EACH PARTY HERETO HEREBY IRREVOCABLY, AND UNCONDITIONALLY WAIVES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT AND ANY OTHER DOCUMENT RELATED HERETO.**

15. You shall not be entitled to recover from us any consequential or incidental damages, damages for loss of time, profits, income, or to property, as a result of this Agreement.

16. This Agreement shall be governed by the laws of the state of Texas. Venue and jurisdiction will be in the city where the dealership is physically located.

EXHIBIT “D”

GENOVA BURNS LLC

Kathleen Barnett Einhorn (040161992)

John J. Boulton, Esq. (241742018)

494 Broad Street

Newark, New Jersey 07102

Telephone: (973) 533-0777

Attorneys for Defendant, Lithia Motors Inc.

HANS LAMPART and LORI ANN
FIOCCHI

Plaintiff,
v.

JOHN EAGLE HONDA OF DALLAS,
LITHIA MOTORS INC., WESLEY
GERHARDT, John Does 1-10, ABC
Corporations 1-10, j/s/a

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: CUMBERLAND
COUNTY

DOCKET NO. CUM-L-000451-23

Civil Action

**NOTICE OF FILING OF NOTICE OF
REMOVAL**

TO: Clerk
Superior Court of New Jersey
Law Division, Cumberland County
60 W. Broad Street
Bridgeton, NJ 08302

Michael L. Testa, Esq.
Testa Heck Testa & White, P.A.
424 Landis Avenue
Vineland, NJ 08360
Attorneys for Plaintiff

In accordance with 28 U.S.C. § 1446(d), Defendant Lithia Motors, Inc. respectfully files a copy of its Notice of Removal of this action to the United States District Court for the District of New Jersey (the “Notice”). The Notice has been filed in the United States District Court, and a copy of the Notice is attached hereto as **Exhibit A**.

In accordance with 28 U.S.C. § 1446(d), the filing of the copy of this Notice effectuates the removal of this action from this Court to the United States District Court, and “the State Court shall proceed no further unless and until this case is remanded.”

Respectfully submitted,

/s/ Kathleen Barnett Einhorn

KATHLEEN BARNETT EINHORN, ESQ.

GENOVA BURNS LLC

494 Broad Street

Newark, NJ 07102

Telephone: (973) 533-0777

Attorneys for Defendant, Lithia Motors Inc.

Dated: September 12, 2023

CERTIFICATE OF SERVICE

I, Kathleen Barnett Einhorn, Esq., hereby certify that on this date I served the foregoing on all parties by causing a true and correct copy thereof to be served electronically through the Court's electronic filing system, as follows:

Michael L. Testa, Esq.
Testa Heck Testa & White, P.A.
424 Landis Avenue
Vineland, NJ 08360
Attorneys for Plaintiff

/s/ Kathleen Barnett Einhorn
KATHLEEN BARNETT EINHORN, ESQ.

Dated: September 12, 2023

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

HANS LAMPART and LORI ANN FIOCCHI,

PLAINTIFFS,

v.

**JOHN EAGLE HONDA OF DALLAS,
LITHIA MOTORS INC., WESLEY
GERHARDT, John Does 1-10, ABC
Corporations 1-10, j/s/a**

DEFENDANTS.

CASE NO. _____

PRAECIPE TO FILE NOTICE OF REMOVAL

**TO: Cumberland County New Jersey Clerk's Office
Cumberland County Court House
60 W Broad Street
Bridgeton, NJ 08302**

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. Sect. 1446, Lithia Motors, Inc., Defendant in the above captioned matter, has on September 12, 2023, filed its Notice of Removal, a copy of which is attached hereto, in the office of the Clerk, United States District Court for the District of New Jersey, Mitchell H. Cohen Building & U.S. Courthouse 4th and Cooper Streets, Room 1050, Camden, NJ 08101.

Respectfully submitted,
GENOVA BURNS LLC

By: /s/ Kathleen Barnett Einhorn
Kathleen Barnett Einhorn
494 Broad Street
Newark, New Jersey 07102
(973) 533-0777
Fax: (973) 533-1112
keinhorn@genovaburns.com

EXHIBIT “E”

TESTA HECK TESTA & WHITE, P.A.

By: Michael L. Testa (#020251975)
mtesta@testalawyers.com

424 Landis Avenue
Vineland, NJ 08360
Phone: (856) 691-2300
Fax: (856) 691-5655

Attorney for Plaintiffs, Hans Lampart and Lori Ann Fiocchi

HANS LAMPART and LORI ANN FIOCCHI,	:	SUPERIOR COURT OF NEW JERSEY
	:	
	:	CUMBERLAND COUNTY – LAW
Plaintiffs	:	DIVISION
	:	
vs.	:	Docket No:
	:	
JOHN EAGLE HONDA OF DALLAS,	:	CIVIL ACTION
LITHIA MOTORS INC., WESLEY	:	
GERHARDT, John Does 1-10, ABC	:	
Corporations 1-10, j/s/a	:	COMPLAINT BY HANS LAMPART
	:	AND LORI ANN FIOCCHI
Defendants	:	

Plaintiffs, Hans Lampart and Lori Ann Fiocchi, by way of Complaint against Defendants, John Eagle Honda of Dallas, Lithia Motors, Inc., Wesley Gerhardt, John Does 1-10 and ABC Corporations 1-10, j/s/a, do hereby state and say:

FACTS COMMON TO ALL COUNTS

1. Plaintiffs, Hans Lampart and Lori Ann Fiocchi are New Jersey residents with an address of 925 E. Landis Avenue Suite E Vineland, NJ 08361.
2. Defendant, John Eagle Honda of Dallas, is upon information and belief a Texas business entity with an address of 5311 Lemmon Ave, Dallas, TX 75209.
3. Defendant, Lithia Motors, Inc. is an online automobile vehicle provider that owns John Eagle Honda of Dallas that has an address of 150 North Bartlett Medford, Oregon USA 97501 and does business nationally.

4. Defendant, Wesley Gerhardt is the General Sales Manager of Lithia Motors, Inc. and has an address of 5311 Lemmon Avenue, Dallas, TX 75209.

5. Defendants John Does 1-10 are fictitious entities and are described as the individual owners, employees, agents, and/or representatives of John Eagle Honda of Dallas and/or Lithia Motors, Inc. described herein that misrepresented the vehicle's condition and caused injury to Hans Lampart and Lori Ann Fiocchi.

6. Defendants, ABC Corporations 1-10, are fictitious entities and are described as the successors, subsidiaries, parent companies, joint venturers, and otherwise affiliated entities of John Eagle Honda of Dallas and/or Lithia Motors, Inc.

FACTS

7. On May 8, 2023, Plaintiff, Hans Lampart, and Defendant, John Eagle Honda of Dallas, entered into an agreement for John Eagle Honda of Dallas to sell a 2020 Aston Martin DB11 (Vin# SCFRMFCW2LGMO885) to Plaintiffs Hans Lampart and Lori Ann Fiocchi.

8. The vehicle was advertised by Defendant John Eagle Honda of Dallas to have 9,968 miles on the odometer at sale and only two previous owners to the vehicle.

9. When the vehicle was delivered, the car had over 11,000 miles, three previous owners, underrated tires, an overdue 10,000-mile inspection, a center console that needed to be replaced, a damaged left rear quarter panel, needed a detail, and only one car key.

8. Plaintiff Hans Lampart had informed Defendant Wesley Gerhardt of the condition of the car after delivery and listed the specific repairs that needed to be made.

9. Plaintiffs Hans Lampart and Lori Ann Fiocchi have paid approximately \$12,000.00 out of pocket to repair the car into an acceptable condition. These costs do not accommodate for the diminished value due to increased mileage and number of owners.

10. Defendants has refused to reimburse Plaintiffs for the costs.
11. Defendants delayed sending the title to Plaintiffs for over eight weeks.

COUNT ONE
(All Defendants)
(NJ Consumer Fraud Act)

12. The preceding paragraphs are incorporated by reference as if set forth at length herein.

13. The Plaintiffs sue for the damages sustained on account of the fraudulent actions and inactions of Defendants.

14. Defendants had misrepresented the condition, mileage and number of previous owners.

15. Plaintiffs have suffered a loss because the value of the vehicle is significantly less than the vehicle they bargained for.

16. Defendants' misrepresentations of the vehicles overall condition have caused Plaintiffs to incur damages by providing Plaintiffs with a vehicle valued much lower than agreed upon.

17. As a direct and proximate result of the intentional misrepresentations on the part of Defendants, Plaintiffs have suffered foreseeable direct and consequential damages.

18. Such damages include service and repair costs, frustration and aggravation.

WHEREFORE, Plaintiffs, Hans Lampart and Lori Ann Fiocchi demand rescission of the contract and as damages against the Defendants, j/s/a, for all services, repairs, frustration, aggravation plus lawful interest, reasonable attorneys' fees, punitive damages, treble damages, costs of suit and any other relief deemed to be just and equitable.

COUNT TWO
(All Defendants)
Common Law Fraud

19. The preceding paragraphs are incorporated by reference as if set forth at length herein.

20. Defendants have misrepresented the number of miles, number of owners, and the overall condition of the vehicle.

21. The difference in the number of miles, owners and overall condition diminished the value of the vehicle.

22. Defendants knew or should have known that there was a misrepresentation in the number of miles, number of previous owners and overall condition of the vehicle.

23. Defendants have misrepresented the specific details of the vehicle to appeal to the Plaintiffs for purchase.

24. Plaintiffs were unaware of the misrepresentation at the time of contract.

25. Plaintiffs relied on the vehicle advertisement, the discussions with the sales person, and the information provided to Plaintiffs on the registration and other documents.

26. Plaintiffs had no other reason to believe the information provided to Plaintiffs were false.

27. But for the misrepresentations provided by the Defendants, The Plaintiffs have suffered damages

WHEREFORE, Plaintiffs demand rescission of the contract and as damages against the Defendants, j/s/a, for all services, repairs, frustration, aggravation plus lawful interest, reasonable attorneys' fees, costs of suit, punitive damages and any other relief deemed to be just and equitable.

TESTA HECK TESTA & WHITE, P.A.

Dated: August 7, 2023

BY: s/ Micheal L. Testa
MICHAEL L. TESTA
Attorney for:
Hans Lampart and Lori Ann Fiocchi

DEMAND PURSUANT TO R. 4:18-1

Pursuant to R. 4:18-1, demand is made that John Eagle Honda of Dallas, Lithia Motors, Inc. and Wesley Gerhardt furnish true and correct copies of the following documents:

1. Any and all agreements, documents, and contracts between and/or among any and all persons and/or parties relating to the subject matter of this action.
2. Any and all documents in the possession of the Defendants relevant to any issue regarding the subject matter of this litigation.
3. Any and all correspondence between and/or among all persons and/or parties relating to the subject matter of this action.
4. Any and all memoranda between and/or among any and all persons and/or parties relating to the subject matter of this action.
5. Any and all reports between and/or among any and all persons and/or parties relating to the subject matter of this action.
6. Any and all emails, text messages, facsimiles or other correspondence between and/or among any and all persons and/or parties relating to the subject matter of this action.
7. Any and all records of discussions and conversations between and/or among any and all persons and/or parties relating to the subject matter of this action.

8. Any and all records of communications including inter-office and intra-office communications between and/or among any and all persons and/or parties relating to the subject matter of this action.

9. Any and all statements obtained from any and all persons and/or parties, whether signed and acknowledged or not, relating in any way whatsoever to this litigation.

10. All photographs, charts, diagrams, maps and other pictorial or graphic depictions of any matter relevant to the action whether in the possession of or under the control of or available to the Defendants.

TESTA HECK TESTA & WHITE, P.A.

Dated: August 7, 2023

BY: s/ Michael L. Testa
Michael L. Testa
Attorney for:
Hans Lampart and Lori Ann Fiocchi

CERTIFICATION PURSUANT TO R. 4:5-1

I, Micheal L. Testa an attorney at law of the State of New Jersey and a partner with the law firm of Testa Heck Testa & White, P.A., certify as follows:

1. I am not aware of any other action now pending in any other court or of a pending or contemplated arbitration proceeding regarding the matters in controversy in this civil action.

2. I am not aware at this time of the names of any other person or prospective parties who should be joined in this action.

3. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the statements made by me are willfully false, I am subject to punishment.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury in accord with the Rules of Civil Practice.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Michael L. Testa, Esquire, is hereby designated as trial counsel in the above-captioned litigation on behalf of Plaintiffs, Hans Lampart and Lori Ann Fiocchi.

Dated: August 7, 2023

s/ Michael L. Testa

Michael L. Testa

Civil Case Information Statement

Case Details: CUMBERLAND | Civil Part Docket# L-000451-23

Case Caption: LAMPART HANS VS JOHN EAGLE HONDA
OF DALLAS

Case Initiation Date: 08/09/2023

Attorney Name: MICHAEL L TESTA

Firm Name: TESTA HECK TESTA & WHITE, PA

Address: 424 LANDIS AVE P.O. BOX 749

VINELAND NJ 083620749

Phone: 8566912300

Name of Party: PLAINTIFF : Lampart, Hans

Name of Defendant's Primary Insurance Company
(if known): Unknown

Case Type: OTHER Consumer Fraud

Document Type: Complaint with Jury Demand

Jury Demand: YES - 12 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

**Do you anticipate adding any parties (arising out of same
transaction or occurrence)?** NO

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: Hans Lampart? NO

Are sexual abuse claims alleged by: Lori Ann Fiocchi? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? YES

If yes, is that relationship: Business

Does the statute governing this case provide for payment of fees by the losing party? NO

**Use this space to alert the court to any special case characteristics that may warrant individual
management or accelerated disposition:**

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** YES

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b)

08/09/2023
Dated

/s/ MICHAEL L TESTA
Signed

HANS LAMPART, ET AL

Plaintiff

20230810172209

Superior Court Of New Jersey

VS

CUMBERLAND Venue

JOHN EAGLE HONDA OF DALLAS, ET AL

Defendant

Docket Number: CUM L 451 23

Person to be served (Name and Address):

LITHIA MOTORS, INC.
150 N. BARTLETT
MEDFORD OR 97501

By serving: LITHIA MOTORS, INC.

Attorney: MICHAEL L. TESTA, ESQ.

Papers Served: SUMMONS AND COMPLAINT, CIS, TRACK ASSIGNMENT
NOTICE, DEMANDS, CERTIFICATION,

Service Data: ☒ Served Successfully [] Not Served

Date/Time:

8-14-23

10:12AM

[] Delivered a copy to him/her personally

[] Left a copy with a competent household member over 14 years of age residing therein (indicate name & relationship at right)

☒ Left a copy with a person authorized to accept service, e.g. managing agent, registered agent, etc. (indicate name & official title at right)

AFFIDAVIT OF SERVICE

(For Use by Private Service)

Cost of Service pursuant to R. 4:4-3(c)

\$ _____

Name of Person Served and relationship/title:

Sara Plankenhorn

Corporate Receptionist

Description of Person Accepting Service:

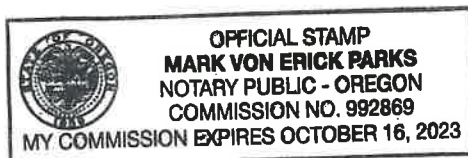
SEX: F AGE: 50 HEIGHT: 5'5 WEIGHT: 180 SKIN: W HAIR: blond OTHER: _____

Unserved:

- [] Defendant is unknown at the address furnished by the attorney
[] All reasonable inquiries suggest defendant moved to an undetermined address
[] No such street in municipality
[] Defendant is evading service
[] Appears vacant
[] No response on:

Date/Time: _____
Date/Time: _____
Date/Time: _____

Other: _____



To Be Used Where Electronic Signature Not Available

Served Data:

Subscribed and Sworn to me this

17 day of August, 2023

Notary Signature:

MARK PARKS 10-16-23
Name of Notary Commission Expiration

DocuSign Court Approved E-Signature

I, Kristeen Martin

was at the time of service a competent adult, over the age of 18 and not having direct interest in the litigation. I declare under penalty of perjury that the foregoing is true and correct.

Signature of Process Server Date 8/17/2023

Name of Private Server: _____ Address: 2009 Morris Avenue UNION, NJ 07083 Phone: (800) 672-1952

CUMBERLAND COUNTY SUPERIOR COURT
CIVIL CASE MANAGEMENT
60 W BROAD ST
BRIDGETON NJ 08302

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (856) 878-5050
COURT HOURS 8:30 AM - 4:30 PM

DATE: AUGUST 09, 2023
RE: LAMPART HANS VS JOHN EAGLE HONDA OF DALLAS
DOCKET: CUM L -000451 23

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 1.

DISCOVERY IS 150 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON NIKI ARBITTIER

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 102
AT: (856) 878-5050 EXT 15328.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE
WITH R.4:5A-2.

ATTENTION:

ATT: MICHAEL L. TESTA
TESTA HECK TESTA & WHITE, PA
424 LANDIS AVE
P.O. BOX 749
VINELAND NJ 08362-0749

ECOURTS

TESTA HECK TESTA & WHITE, P.A.
MICHAEL L. TESTA - Attorney ID: 020251975
424 W Landis Avenue
Vineland, NJ 08360
Phone: (856) 691-2300
Fax: (856) 691-5655
Attorney(s) for Plaintiffs, Hans Lampart and Lori Ann Fiocchi

HANS LAMPART and LORI ANN FIOCCHI

Plaintiff

vs.

JOHN EAGLE HONDA OF DALLAS, LITHIA
MOTORS INC., WESLEY GERHARDT, LLC, John
Does 1-10, ABC Corporations 1-10, j/s/a/

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
CUMBERLAND COUNTY

DOCKET NO. : CUM-L-451-23

CIVIL ACTION
SUMMONS

From The State of New Jersey To The Defendant(s) Named Above:

LITHIA MOTORS, INC.

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.

Dated: August 10, 2023

/s/ Michelle M. Smith
Clerk of the Superior Court

Name of Defendant to Be Served: Lithia Motors, Inc.

Address of Defendant to Be Served: 150 N. Bartlett
Medford, Oregon 97501

TESTA HECK TESTA & WHITE, P.A.

By: Michael L. Testa (#020251975)
mtesta@testalawyers.com

424 Landis Avenue
Vineland, NJ 08360
Phone: (856) 691-2300
Fax: (856) 691-5655

Attorney for Plaintiffs, Hans Lampart and Lori Ann Fiocchi

HANS LAMPART and LORI ANN FIOCCHI,	:	SUPERIOR COURT OF NEW JERSEY
	:	
	:	CUMBERLAND COUNTY – LAW
Plaintiffs	:	DIVISION
	:	
vs.	:	Docket No:
	:	
JOHN EAGLE HONDA OF DALLAS,	:	CIVIL ACTION
LITHIA MOTORS INC., WESLEY	:	
GERHARDT, John Does 1-10, ABC	:	
Corporations 1-10, j/s/a	:	COMPLAINT BY HANS LAMPART
	:	AND LORI ANN FIOCCHI
Defendants	:	

Plaintiffs, Hans Lampart and Lori Ann Fiocchi, by way of Complaint against Defendants, John Eagle Honda of Dallas, Lithia Motors, Inc., Wesley Gerhardt, John Does 1-10 and ABC Corporations 1-10, j/s/a, do hereby state and say:

FACTS COMMON TO ALL COUNTS

1. Plaintiffs, Hans Lampart and Lori Ann Fiocchi are New Jersey residents with an address of 925 E. Landis Avenue Suite E Vineland, NJ 08361.
2. Defendant, John Eagle Honda of Dallas, is upon information and belief a Texas business entity with an address of 5311 Lemmon Ave, Dallas, TX 75209.
3. Defendant, Lithia Motors, Inc. is an online automobile vehicle provider that owns John Eagle Honda of Dallas that has an address of 150 North Bartlett Medford, Oregon USA 97501 and does business nationally.

4. Defendant, Wesley Gerhardt is the General Sales Manager of Lithia Motors, Inc. and has an address of 5311 Lemmon Avenue, Dallas, TX 75209.

5. Defendants John Does 1-10 are fictitious entities and are described as the individual owners, employees, agents, and/or representatives of John Eagle Honda of Dallas and/or Lithia Motors, Inc. described herein that misrepresented the vehicle's condition and caused injury to Hans Lampart and Lori Ann Fiocchi.

6. Defendants, ABC Corporations 1-10, are fictitious entities and are described as the successors, subsidiaries, parent companies, joint venturers, and otherwise affiliated entities of John Eagle Honda of Dallas and/or Lithia Motors, Inc.

FACTS

7. On May 8, 2023, Plaintiff, Hans Lampart, and Defendant, John Eagle Honda of Dallas, entered into an agreement for John Eagle Honda of Dallas to sell a 2020 Aston Martin DB11 (Vin# SCFRMFCW2LGMO885) to Plaintiffs Hans Lampart and Lori Ann Fiocchi.

8. The vehicle was advertised by Defendant John Eagle Honda of Dallas to have 9,968 miles on the odometer at sale and only two previous owners to the vehicle.

9. When the vehicle was delivered, the car had over 11,000 miles, three previous owners, underrated tires, an overdue 10,000-mile inspection, a center console that needed to be replaced, a damaged left rear quarter panel, needed a detail, and only one car key.

8. Plaintiff Hans Lampart had informed Defendant Wesley Gerhardt of the condition of the car after delivery and listed the specific repairs that needed to be made.

9. Plaintiffs Hans Lampart and Lori Ann Fiocchi have paid approximately \$12,000.00 out of pocket to repair the car into an acceptable condition. These costs do not accommodate for the diminished value due to increased mileage and number of owners.

10. Defendants has refused to reimburse Plaintiffs for the costs.
11. Defendants delayed sending the title to Plaintiffs for over eight weeks.

COUNT ONE
(All Defendants)
(NJ Consumer Fraud Act)

12. The preceding paragraphs are incorporated by reference as if set forth at length herein.

13. The Plaintiffs sue for the damages sustained on account of the fraudulent actions and inactions of Defendants.

14. Defendants had misrepresented the condition, mileage and number of previous owners.

15. Plaintiffs have suffered a loss because the value of the vehicle is significantly less than the vehicle they bargained for.

16. Defendants' misrepresentations of the vehicles overall condition have caused Plaintiffs to incur damages by providing Plaintiffs with a vehicle valued much lower than agreed upon.

17. As a direct and proximate result of the intentional misrepresentations on the part of Defendants, Plaintiffs have suffered foreseeable direct and consequential damages.

18. Such damages include service and repair costs, frustration and aggravation.

WHEREFORE, Plaintiffs, Hans Lampart and Lori Ann Fiocchi demand rescission of the contract and as damages against the Defendants, j/s/a, for all services, repairs, frustration, aggravation plus lawful interest, reasonable attorneys' fees, punitive damages, treble damages, costs of suit and any other relief deemed to be just and equitable.

CUMBERLAND COUNTY SUPERIOR COURT
CIVIL CASE MANAGEMENT
60 W BROAD ST
BRIDGETON NJ 08302

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (856) 878-5050
COURT HOURS 8:30 AM - 4:30 PM

DATE: AUGUST 09, 2023
RE: LAMPART HANS VS JOHN EAGLE HONDA OF DALLAS
DOCKET: CUM L -000451 23

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 1.

DISCOVERY IS 150 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON NIKI ARBITTIER

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 102
AT: (856) 878-5050 EXT 15328.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE
WITH R.4:5A-2.

ATTENTION:

ATT: MICHAEL L. TESTA
TESTA HECK TESTA & WHITE, PA
424 LANDIS AVE
P.O. BOX 749
VINELAND NJ 08362-0749

ECOURTS

COUNT TWO
(All Defendants)
Common Law Fraud

19. The preceding paragraphs are incorporated by reference as if set forth at length herein.

20. Defendants have misrepresented the number of miles, number of owners, and the overall condition of the vehicle.

21. The difference in the number of miles, owners and overall condition diminished the value of the vehicle.

22. Defendants knew or should have known that there was a misrepresentation in the number of miles, number of previous owners and overall condition of the vehicle.

23. Defendants have misrepresented the specific details of the vehicle to appeal to the Plaintiffs for purchase.

24. Plaintiffs were unaware of the misrepresentation at the time of contract.

25. Plaintiffs relied on the vehicle advertisement, the discussions with the sales person, and the information provided to Plaintiffs on the registration and other documents.

26. Plaintiffs had no other reason to believe the information provided to Plaintiffs were false.

27. But for the misrepresentations provided by the Defendants, The Plaintiffs have suffered damages

WHEREFORE, Plaintiffs demand rescission of the contract and as damages against the Defendants, j/s/a, for all services, repairs, frustration, aggravation plus lawful interest, reasonable attorneys' fees, costs of suit, punitive damages and any other relief deemed to be just and equitable.

TESTA HECK TESTA & WHITE, P.A.

Dated: August 7, 2023

BY: s/ Micheal L. Testa
MICHAEL L. TESTA
Attorney for:
Hans Lampart and Lori Ann Fiocchi

DEMAND PURSUANT TO R. 4:18-1

Pursuant to R. 4:18-1, demand is made that John Eagle Honda of Dallas, Lithia Motors, Inc. and Wesley Gerhardt furnish true and correct copies of the following documents:

1. Any and all agreements, documents, and contracts between and/or among any and all persons and/or parties relating to the subject matter of this action.
2. Any and all documents in the possession of the Defendants relevant to any issue regarding the subject matter of this litigation.
3. Any and all correspondence between and/or among all persons and/or parties relating to the subject matter of this action.
4. Any and all memoranda between and/or among any and all persons and/or parties relating to the subject matter of this action.
5. Any and all reports between and/or among any and all persons and/or parties relating to the subject matter of this action.
6. Any and all emails, text messages, facsimiles or other correspondence between and/or among any and all persons and/or parties relating to the subject matter of this action.
7. Any and all records of discussions and conversations between and/or among any and all persons and/or parties relating to the subject matter of this action.

8. Any and all records of communications including inter-office and intra-office communications between and/or among any and all persons and/or parties relating to the subject matter of this action.

9. Any and all statements obtained from any and all persons and/or parties, whether signed and acknowledged or not, relating in any way whatsoever to this litigation.

10. All photographs, charts, diagrams, maps and other pictorial or graphic depictions of any matter relevant to the action whether in the possession of or under the control of or available to the Defendants.

TESTA HECK TESTA & WHITE, P.A.

Dated: August 7, 2023

BY: s/ Michael L. Testa
Michael L. Testa
Attorney for:
Hans Lampart and Lori Ann Fiocchi

CERTIFICATION PURSUANT TO R. 4:5-1

I, Micheal L. Testa an attorney at law of the State of New Jersey and a partner with the law firm of Testa Heck Testa & White, P.A., certify as follows:

1. I am not aware of any other action now pending in any other court or of a pending or contemplated arbitration proceeding regarding the matters in controversy in this civil action.

2. I am not aware at this time of the names of any other person or prospective parties who should be joined in this action.

3. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the statements made by me are willfully false, I am subject to punishment.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury in accord with the Rules of Civil Practice.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Michael L. Testa, Esquire, is hereby designated as trial counsel in the above-captioned litigation on behalf of Plaintiffs, Hans Lampart and Lori Ann Fiocchi.

Dated: August 7, 2023

s/ Michael L. Testa

Michael L. Testa

Civil Case Information Statement

Case Details: CUMBERLAND | Civil Part Docket# L-000451-23

Case Caption: LAMPART HANS VS JOHN EAGLE HONDA
OF DALLAS

Case Initiation Date: 08/09/2023

Attorney Name: MICHAEL L TESTA

Firm Name: TESTA HECK TESTA & WHITE, PA

Address: 424 LANDIS AVE P.O. BOX 749

VINELAND NJ 083620749

Phone: 8566912300

Name of Party: PLAINTIFF : Lampart, Hans

Name of Defendant's Primary Insurance Company
(if known): Unknown

Case Type: OTHER Consumer Fraud

Document Type: Complaint with Jury Demand

Jury Demand: YES - 12 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: Hans Lampart? NO

Are sexual abuse claims alleged by: Lori Ann Fiocchi? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? YES

If yes, is that relationship: Business

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? YES

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

08/09/2023
Dated

/s/ MICHAEL L TESTA
Signed

